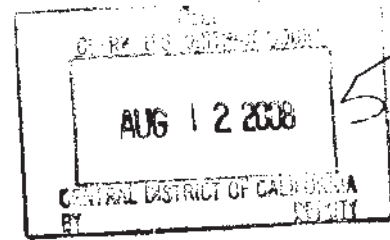


1 **Tammy Hussin (155290)**
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9
10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

12 **WESTERN DIVISION**

13 **Alex Upshaw**

14 **Plaintiff,**

15 **vs.**

16 **Creditors Financial Group, LLC**

17 **Defendant.**

2008-05296 PSG (MANX)
) Case No.
)
) **COMPLAINT FOR VIOLATION**
) **OF FEDERAL FAIR DEBT**
) **COLLECTION PRACTICES ACT**
) **and ROSENTHAL FAIR DEBT**
) **COLLECTION PRACTICES ACT**
) **and INVASION OF PRIVACY**
)
)

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20
21 **I. INTRODUCTION**

22 1. This is an action for damages brought by an individual consumer for
23 Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §
24 1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection
25 Practices Act, Cal Civ Code § 1788, *et seq.* (hereinafter "RFDCPA"), both of
26 which prohibit debt collectors from engaging in abusive, deceptive, and unfair
27
28

1 practices. Ancillary to the claims above, Plaintiff further alleges claims for
2 invasion of privacy arising from intrusion upon seclusion and public disclosure of
3 private facts.
4

5 **II. JURISDICTION**

6
7 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

8 **III. PARTIES**

9
10 3. Plaintiff, Alex Upshaw ("Plaintiff"), is a natural person residing in
11 Los Angeles County, in the state of California, and is a "consumer" as defined by
12 the FDCPA, 15 U.S.C. § 1692a(3) and is a "debtor" as defined by Cal Civ Code
13 1788.2(h).
14

15 4. At all relevant times herein, Defendant, Creditors Financial Group,
16 LLC ("Defendant") was a New York limited liability company engaged, by use of
17 the mails and telephone, in the business of collecting a debt from Plaintiff which
18 qualifies as a "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt,"
19 as defined by Cal Civ Code § 1788.2(f). Defendant regularly attempts to collect
20 debts alleged to be due another, and therefore is a "debt collector" as defined by
21 the FDCPA, 15 U.S.C. § 1692a(6), and RFDCPA, Cal Civ Code § 1788.2(c).
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1 **IV. FACTUAL ALLEGATIONS**

2 5. At various and multiple times prior to the filing of the instant
3 complaint, including within the one year preceding the filing of this complaint,
4 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.
5

6 6. During numerous telephone calls throughout the last year, Defendant
7 repeatedly used language the natural consequence of which was to abuse Plaintiff,
8 including mocking Plaintiff, using tones and words to belittle and humiliate
9 Plaintiff, and repeatedly calling Plaintiff an "evader," all in violation of 15 USC §
10 1692d(2) and Cal Civ Code 1788.11(a).
11

12 7. Throughout the last year of telephone calls, Defendant failed to
13 provide Plaintiff with many of the notices required under 15 USC § 1692g,
14 including but not limited to failing to notify Plaintiff of his right to dispute the
15 debt in violation of 15 USC § 1692g(a)(3),(4), and (5), and Cal Civ Code
16 1788.17.
17

18 8. Over the last year, Defendant caused Plaintiff's telephone to ring
19 repeatedly or continuously with the intent to harass, annoy and/or abuse Plaintiff
20 in violation of 15 USC § 1692d(5) and Cal Civ Code § 1788.11(d) and (e).
21

22 9. On at least one occasion in the past year, Defendant threatened to
23 take actions that could not have been legally taken or that were not actually
24 intended to be taken, including threatening to charge Plaintiff with the crime of
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1 “evasion of debt,” and threatened to file a claim against on a particular day, which
2 did not actually take place, in violation of 15 USC § 1692e(5) and Cal Civ Code §
3 1788.13(j).

4
5 10. Defendant’s aforementioned violations of the FDCPA also constitute
6 an intentional intrusion into Plaintiff’s private places and into private matters of
7 Plaintiff’s life, conducted in a manner highly offensive to a reasonable person.
8 Plaintiff had a subjective expectation of privacy that was objectively reasonable
9 under the circumstances.
10

11
12 11. As a result of the above violations of the FDCPA, RFDCPA and
13 invasion of privacy, Plaintiff suffered and continues to suffer injury to Plaintiff’s
14 feelings, personal humiliation, embarrassment, mental anguish and emotional
15 distress, and Defendant is liable to Plaintiff for Plaintiff’s actual damages,
16 statutory damages, and costs and attorney’s fees.
17

18
19 **COUNT I: VIOLATION OF FAIR DEBT**
20 **COLLECTION PRACTICES ACT**
21

22 12. Plaintiff reincorporates by reference all of the preceding paragraphs.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff respectfully prays that judgment be entered
25 against the Defendant for the following:
26

27 A. Declaratory judgment that Defendant’s conduct
28

1 violated the FDCPA;

2 B. Actual damages;

3 C. Statutory damages;

4 D. Costs and reasonable attorney's fees; and,

5 E. For such other and further relief as may be just and proper.

6
7 **COUNT II: VIOLATION OF ROSENTHAL**
8 **FAIR DEBT COLLECTION PRACTICES ACT**

9 13. Plaintiff reincorporates by reference all of the preceding paragraphs.

10 14. To the extent that Defendant's actions, counted above, violated the
11 RFDCPA, those actions were done knowingly and willfully

12
13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff respectfully prays that judgment be entered
15 against the Defendant for the following:

16
17 A. Declaratory judgment that Defendant's conduct
18 violated the RFDCPA;

19 B. Actual damages;

20 C. Statutory damages for willful and negligent violations;

21 D. Costs and reasonable attorney's fees,

22 E. For such other and further relief as may be just and proper.

23 **COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION**

24
25 15. Plaintiff reincorporates by reference all of the preceding paragraphs.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff respectfully prays that judgment be entered
3
4 against the Defendant for the following:

- 5 A. Actual damages
6 B. Punitive Damages; and,
7 C. For such other and further relief as may be just and proper.
8

9 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

10
11
12 Respectfully submitted 29th day of July, 2008

13
14
15 By: 

16 Tammy Hussin (155290)
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23 Attorney for Plaintiff
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28

ORIGINAL**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Alex Upshaw

PLAINTIFF(S)

v.

Creditors Financial Group, LLC

DEFENDANT(S).

CASE NUMBER

CV08-05296 PSG (MAN)**SUMMONS**TO: DEFENDANT(S): Creditors Financial Group, LLC

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Tammy Hussin, Weisberg & Meyers, whose address is 6455 Pyrus Place, Carlsbad CA 92011. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Dated: AUG 13 2008

Clerk, U.S. District Court

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].